IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.370 OF 2007
WITH
CIVIL APPLICATION NO.32 OF 2007

Sitabai Shivaji Mandhare & Anr. .. Appellants.
Vs.
Smt.Gandaribai G.Mandhare & Ors. .. Respondents.

Mr.Mohan N.Dhamal for the appellants.

CORAM : D.B.BHOSALE, J.
DATED : 29TH AUGUST, 2007.

P.C.:

. Heard learned counsel for the appellants.

2. This appeal is directed against concurrent findings of fact recorded by the courts below by which a suit instituted by the respondent-plaintiffs for partition and separate possession of their share stands decreed. This appeal is filed by the original defendant nos.3 and 4, who are purchasers of some of the properties from defendant no.1. Mr.Dhamal, learned counsel for the appellants submitted that the evidence on record is sufficient to hold that the alienation of the suit property was for the legal necessity and that they are bonafide purchaser for the value without notice. He further submitted that in view thereof the sale transaction in their favour

is binding upon the plaintiffs. Both the courts below after having considered the entire evidence on record have concurrently held that the questioned sale transaction was not for legal necessity and the appellants are not bonafide purchaser for the value without notice. I do not find any infirmity or error in the findings of facts as they are entirely based on the evidence on record. No substantial question of law is either raised or involved in the instant appeal hence the appeal is dismissed. In execution proceedings it is open for the appellants to participate in the execution proceedings, they being a party to the proceedings. However, I am not expressing any opinion on the right of the appellants insofar as execution of decree is concerned. The Executing authority may decide the question, if any, raised by the appellants, during the execution on merits in accordance with law. The second appeal is disposed of. Consequently, the civil application is also disposed of.

(D.B.BHOSALE, J.)